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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,202	09/24/2001	Baruch Solomon	2207/12173	6536

23838 7590 07/28/2005

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EXAMINER

LI, ZHUO H

ART UNIT	PAPER NUMBER
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2189

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/961,202

Applicant(s)

SOLOMON ET AL.

Examiner

Zhuo H. Li

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 5-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


STEPHEN C. ELMORE
PRIMARY EXAMINER


Response to Arguments

1. Applicant's arguments filed June 29, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Yamashiroya fails to teaches to building and storing instruction segments from and output of a segment builder, it is noted that the previous rejection clearly pointed out the hit threshold register (461, figure 1) being used as update condition for a cache memory entry in a inhibition information memory (col. 3 line 50 through col. 4 line 53), thereby the hit threshold register in combination with the inhibition information memory functioning the step of building and storing instruction segments from an output of a segment builder, i.e., updating of the cache entry in the inhibition information memory from the cache memory based on the number of sequential contained in the hit threshold register. In addition, Applicant's use of the claim terms "instruction segment" and "segment builder, are neither as terms in the art having well-defined and commonly known meaning, nor these terms appear in technical dictionaries, and while Applicant is permitted to be his own lexicographer, nevertheless, Applicant failed to expressly define these terms in the specification, as is required for Applicant to be entitled to a specific specialized meaning for these terms and their associated usage in the claims. Furthermore, the claims neither define what is an "instruction segment" nor the specific meaning of a "segment builder", and absent such a definition these terms are very broad in the scope of meaning. Applicant is not permitted to import functional limitations from the specification into the claims and Applicant is not permitted to import meaning into claim terms, which has not been expressly defined in either the specification or the claims. Therefore,

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for all of these reasons above, the claim interpretation given to the terms “instruction segment” and “segment builder” and their scope of usage in the claims is a proper interpretation, and notwithstanding Applicant’s arguments, Yamashiroya teaches the claimed limitations to the actual extent they are being claimed.

In response to applicant’s argument that Miyazaki fails to teach a threshold comparator, it is noted that Miyazaki clearly teaches element (32, figure 5) to compare the result received from two input means and to output an activation signal based on the compared result (col. 15 line 66 through col. 16 line 5). In addition, the claimed language fails to clearly define what is the function of the threshold comparator. Thus, Miyazaki is enough to reject the broad claimed language.

In response to applicant’s argument that neither Miyazaki nor Chauvel teaches the output of the tags comparator enable an instruction of segment builder, it is noted that Miyazaki teaches element (32, figure 5), read as the tag comparator, to compare the result received from two input means and to output an activation signal based on the compared result (col. 15 line 66 through col. 16 line 5), thereby enabling to fetch data from the main memory or the secondary cache memory to DM cache table (col. 16 lines 10-19). In addition, the claimed language fails to clearly define what is an instruction segment builder. Thus, the combination of Miyazaki and Chauvel is enough to reject the broad claimed limitations.


STEPHEN C. ELMORE
PRIMARY EXAMINER